

Emergency Rules

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

EMERGENCY AMENDMENT

2 CSR 70-17.010 Definitions. The department is amending the entire rule.

PURPOSE: This amendment updates the list of definitions for Chapter 17.

PURPOSE: This rule lists definitions for Chapter 17.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2668-2670). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

The terms defined in sections 195.010 and 195.740, RSMo, in addition to other relative terms pertaining to the industrial hemp [agricultural pilot] program will be applied for use in 2 CSR 70-17.010 to [2 CSR 70-17.120] 2 CSR 70-17.130.

[(1) Agricultural Hemp Seed Production Permit—permit issued by the Missouri Department of Agriculture to registered growers and handlers engaged in the production of agricultural hemp seed that:

(A) Is sold or intended to be sold to registered growers for

planting; or

(B) Remains capable of germination.

(2) Applicant—a person, joint venture, or cooperative who submits an application for registration as a grower and/or handler.

(3) CBD—cannabidiol.

(4) Certificate of analysis—a certificate from an independent testing laboratory describing the results of the laboratory's testing of a sample.

(5) Certified agricultural hemp seed—seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of any country, state, territory, or possession of the United States to officially certify seed and that has standards and procedures approved by the Association of Official Seed Certifying Agencies (AOSCA) to assure the genetic purity and identity of the seed certified.

(6) Cooperative—organization that is owned and run jointly by its members, who share the profits or benefits.

(7) Delta-9 THC—delta-9 tetrahydrocannabinol.

(8) Department—The Director of the Department of Agriculture and all department employees.

(9) Destroy/destruction—rendered unusable by burning or incorporating with other materials in a manner approved by the Missouri Department of Agriculture.

(10) Grower registration—registration issued by the Missouri Department of Agriculture to applicants for production and cultivation of industrial hemp.

(11) Handler registration—registration issued by the Missouri Department of Agriculture to applicants for processing industrial hemp into publicly marketable hemp products.

(12) Harvest—the termination of the cultivation process.

(13) Hemp extract—an extract from a cannabis sativa L. plant or a mixture or preparation containing cannabis sativa L. plant material that is composed of no more than three-tenths of one percent (0.3%) delta-9 THC on a dry weight basis.

(14) Independent testing laboratory—a laboratory:

(A) With respect to which no person having a direct or indirect interest in the laboratory also has a direct or indirect interest in a business that:

1. Cultivates, processes, dispenses, or sells industrial hemp or marijuana;

2. Processes or sells hemp extract, CBD, or other similar substance in another state or jurisdiction; and

(B) That is accredited as a testing laboratory to International Organization for Standardization (ISO/IEC) 17025 by a third party accrediting body such as the American Association for Laboratory Accreditation (A2LA) or Assured Calibration and Laboratory Accreditation Select Services (ACLASS). After the two (2) year period from the original effective date of this rule, the laboratory must also have the industrial hemp testing they perform on their scope of accreditation.

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(15) *Industrial Hemp*—as defined in section 195.010 (24), RSMo.

(16) *Joint venture*—a commercial enterprise undertaken jointly by two (2) or more persons that otherwise retain their distinct identities.

(17) *Person*—includes, but is not limited to, a natural person, sole proprietorship, partnership, limited liability corporation, limited liability partnership, company, corporation, association, government agency or governmental subdivision, business, or non-profit organization.

(18) *Plot of Land*—means a contiguous parcel of land registered with the department on which a registrant plans to cultivate industrial hemp.

(19) *Propagule*—any viable nonseed plant material used to cultivate industrial hemp, including transplants, cuttings, and/or clones.

(20) *Publicly marketable hemp product*—any industrial hemp product that does not include any living hemp plants, viable seeds, viable roots, viable leaf materials, or viable floral materials, and contains no material with a delta-9 THC concentration exceeding three-tenths of one percent (0.3%) on a dry weight basis.]

(1) **Acceptable industrial hemp THC level (acceptable THC level)**—when the application of the measurement of uncertainty to the reported delta-9 THC content concentration level on a dry weight basis produces a distribution range that includes three-tenths of one percent (0.3%) or less. For any certificate of analysis that does not include a measurement of uncertainty, the measurement of uncertainty is deemed zero percent (0.00%).

(2) **Agent**—any family member, employee, contracted employee, or farmhand of a registered producer or permit holder.

(3) **Agricultural hemp propagule (propagule)**—as defined in subdivision 1 of section 195.740, RSMo.

(4) **Agricultural hemp propagule and seed permit (permit)**—permit issued by the Missouri Department of Agriculture to persons authorized to sell, distribute, or offer for sale any viable industrial hemp propagules or viable seeds.

(5) **Agricultural hemp seed (seed)**—as defined in subdivision 2 of section 195.740, RSMo.

(6) **Applicant**—a natural person authorized to sign for a person, who submits an application for a producer registration or an agricultural hemp propagule and seed permit so that they may produce, sell, distribute, or offer for sale any viable industrial hemp.

(7) **Certificate of analysis**—a certificate from a testing laboratory describing the results of the laboratory's testing of a sample.

(8) **Certified industrial hemp sampler (certified sampler)**—a person that meets the requirements established by the department for conducting sampling of industrial hemp.

(9) **Delta-9 tetrahydrocannabinol (THC)**—delta-9 tetrahydrocannabinol measured using postdecarboxylation or other similarly reliable methods approved by the United States Department of Agriculture (USDA).

(10) **Department**—the Missouri Department of Agriculture.

(11) **Destruction (disposal)**—rendered unusable by burning, incorporating with other materials, or other manner approved by the department.

(12) **Farm Service Agency (FSA)**—an agency of the United States Department of Agriculture (USDA).

(13) **Harvest**—the termination of the cultivation of viable industrial hemp or the collection of viable seed.

(14) **Indoor cultivation facility**—any greenhouse or enclosed building or structure capable of continuous cultivation throughout the year that is not a residential building, a vehicle, or designed for use as a dwelling.

(15) **Industrial hemp**—as defined in subdivision 24 of section 195.010, RSMo.

(16) **Key participant**—a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes, but is not limited to, a chief executive officer, chief operating officer, or chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

(17) **Lot**—a group of plants of the same cannabis variety or strain in a contiguous area in a field, greenhouse, or indoor growing structure.

(18) **Measurement of Uncertainty (MU)**—the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

(19) **Parcel**—land with a separate legal description on which an applicant, registered producer, or permit holder plans to or produces, sells, distributes, or offers for sale any viable industrial hemp.

(20) **Permit holder**—any person who holds a valid agricultural hemp propagule and seed permit.

(21) **Person**—includes, but is not limited to, a natural person, sole proprietorship, partnership, limited liability corporation, limited liability partnership, company, association, government agency, governmental subdivision, business, cooperative, joint venture, or non-profit organization.

(22) **Producer registration (registration)**—registration issued by the department to persons authorized to produce viable industrial hemp.

(23) **Publicly marketable product**—any industrial hemp product that does not include any living hemp plants, viable seeds, viable roots, viable leaf materials, or viable floral materials, and contains no material with a delta-9 THC concentration exceeding three-tenths of one percent (0.3%) on a dry weight basis.

(24) **Registered producer**—any person who holds a valid producer registration for the production of industrial hemp.

(25) **Testing laboratory**—a laboratory that is:

(A) Registered with the Drug Enforcement Agency (DEA) or other requirements established by the United States Department of Agriculture; or

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(B) Accredited or has begun the process of accreditation as a testing laboratory to International Organization for Standardization (ISO/IEC) 17025 by a third-party accrediting body such as the American Association for Laboratory Accreditation (A2LA) or ANSI-ASQ National Accreditation Board (ANAB). The laboratory must be accredited and also have the cannabis testing they perform on their scope of accreditation by December 31, 2023.

(26) Viable industrial hemp—plant material capable of living or growing, including agricultural hemp seeds and agricultural hemp propagules.

AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed amendment covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2668-2670). An emergency amendment covering this same material will be published in the February 3, 2020, issue of the Missouri Register.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

EMERGENCY AMENDMENT

2 CSR 70-17.020 [Industrial Hemp Pilot Program Registration Application (Grower and Handler Application Requirements, Selection Process, Application Period, and Fees)] **Registration and Permit Application Requirements.** The department is amending the title, purpose, and entire rule.

PURPOSE: This amendment updates the applicant requirements for a producer registration and agricultural hemp propagule and seed permit.

PURPOSE: This rule explains the [grower and handler application requirements, selection process, application period, and fees] requirements for producer registrations and agricultural hemp propagule and seed permits.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the *Missouri Register* (44 MoReg 2670–2671). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

(1) Each applicant for an Industrial Hemp Agricultural Pilot Program Grower and/or Handler Registration must complete and submit an application for registration on a form provided by the department. Applications must be postmarked by the

deadline for closing the application period. Notice of the open application period will be posted on the department's website.

(2) Growers engaged in the production and cultivation of agricultural hemp seed shall obtain an agricultural hemp seed production permit.

(3) Handlers engaged in the processing and/or distribution of agricultural hemp seed to registered growers shall obtain an agricultural hemp seed production permit.

(4) Growers and/or handlers must apply for separate registrations for each plot of land, location, facility, or establishment where industrial hemp will be grown or handled.

(5) Completed applications must provide the following information:

(A) The complete legal name, mailing address, email, and phone number of the applicant;

(B) The applicant's state of residence or state in which the entity is domiciled;

(C) Type of business entity: person, cooperative, or joint venture;

(D) Type of registration: grower or handler;

(E) Request for Agricultural Hemp Seed Production Permit, if applicable;

(F) Legal description, street address, and Global Positioning System (GPS) coordinates for the plot of land used for cultivating industrial hemp and the industrial hemp storage facility location, if applicable;

(G) Legal description, street address, and Global Positioning System (GPS) coordinates for the industrial hemp processing facility and industrial hemp storage facility location, if applicable;

(H) An industrial hemp production, research, and marketing plan;

(I) The application for a grower registration must include submission of:

1. Any evidence of row crop, nursery, or greenhouse experience for the department's consideration, such as a copy of an IRS Schedule F federal tax form for at least one (1) of the past three (3) years, the applicant's farm serial number (FSN) issued by the United States Department of Agriculture-Farm Service Agency, or evidence of agricultural education;

2. A detailed map of the plot of land on which the applicant plans to grow industrial hemp, showing the boundaries and dimensions of the growing area in acres and the location of different varieties within the growing area;

3. Requested number of acres for production and cultivation of industrial hemp; and

4. Documentation verifying any non-certified agricultural hemp seed to be planted is enrolled in the Missouri Crop Improvement Association's certification program.

(6) Applications must be submitted along with a nonrefundable application fee of one hundred dollars (\$100) per type of registration, made payable to the Missouri Department of Agriculture. Institutions of higher education are exempt from the application fee.

(7) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person, cooperative, or joint venture shall not be a participant in the department's pilot program until the

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applicant has executed a grower registration agreement, paid all registration fees, and received from the department an issued registration.

(8) The department will select applicants for a grower registration by scoring the following factors:

- (A) Application for registration;
- (B) Applicant's row crop, nursery, or greenhouse experience;
- (C) Detailed map of the plot of land on which industrial hemp will be cultivated; and
- (D) Applicant's industrial hemp production, research, and marketing plan.

In the event there is a tie between applicants for a grower registration, the department will select the applicant that received the highest score on row crop, nursery, or greenhouse experience. If a tie score still remains, the department will select the applicant that received the highest score on the industrial hemp production, research, and marketing plan.]

(1) Persons must obtain—

(A) A producer registration in order to produce viable industrial hemp; and

(B) An agricultural hemp propagule and seed permit in order to sell, distribute, or offer for sale any viable industrial hemp.

(2) Each applicant for a producer registration or agricultural hemp propagule and seed permit must complete and submit an application on a form provided by the department.

(3) Persons must apply for a separate registration or permit for each noncontiguous parcel of land where viable industrial hemp will be produced, sold, distributed, or offered for sale.

(4) No application shall include any parcel of land not owned or rented by the person.

(5) The applicant and all key participants applying for the producer registration must meet the requirements of a state and federal fingerprint criminal history background check listed in 2 CSR 70-17.030.

(6) A complete producer registration application must provide the following:

(A) The complete legal name, mailing address, email, and phone number of the applicant and person;

(B) The person's state of residence or domicile;

(C) Type of business entity, if applicable;

(D) Legal description, street address, and Global Positioning System (GPS) coordinates for the parcel(s) of land used for producing industrial hemp; and

(E) A detailed map of the parcel(s) of land on which the person plans to produce industrial hemp, which includes the following information:

1. The boundaries, dimensions, and GPS coordinates of the parcel;

2. Planned number of acres and/or square footage for production of industrial hemp; and

3. Location of buildings or facilities where viable industrial hemp may be held.

(7) A complete agricultural hemp propagule and seed permit application must provide the following:

(A) The complete legal name, mailing address, email, and

phone number of the applicant and person;

(B) The person's state of residence or domicile;

(C) Type of business entity, if applicable;

(D) Legal description, street address, and Global Positioning System (GPS) coordinates for the parcel(s) of land used to sell, distribute, or offer for sale viable industrial hemp; and

(E) A detailed map of the parcel(s) of land on which the applicant plans to sell, distribute or offer for sale viable industrial hemp, including the location of buildings or facilities.

(8) Each registration or permit application must be submitted along with a nonrefundable fee payable to the Missouri Department of Agriculture as established in 2 CSR 70-17.070.

(9) Applications will not be processed until all required materials are received. Incomplete applications will expire sixty (60) days from the time the department notifies the applicant of missing documentation. If an application expires, the applicant must resubmit all documentation and associated fees.

(10) The department shall notify applicants by letter or email whether the application has been denied or approved.

AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed amendment covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2670-2671). An emergency amendment covering this same material will be published in the February 3, 2020, issue of the Missouri Register.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

EMERGENCY AMENDMENT

2 CSR 70-17.030 State and Federal Fingerprint Criminal History Background Check [(When Required, Process, and Fees)] Requirements. The department is amending the title, the purpose, and the entire rule.

PURPOSE: This amendment updates requirements for the State and Federal Fingerprint Criminal History Background check.

PURPOSE: This rule explains the state and federal **fingerprint** criminal history background check requirements.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the **Missouri Register** (44 MoReg 2671-2672). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

[(1) Each applicant for a grower and/or handler registration must complete and pay for a state and federal criminal background check for initial registration and renewal.]

(1) Each applicant and all key participants must complete and pay for a state and federal fingerprint criminal background

check within thirty (30) days of submitting an application for a producer registration and renewal of a producer registration.

(2) Each applicant must complete and pay for a state and federal fingerprint criminal background check within thirty (30) days of submitting an application or renewal to become a certified industrial hemp sampler.

[(2)](3) All required state and federal **fingerprint** criminal background checks shall be *[delivered]* **provided** to the department *[with the application for registration]* through the Missouri State Highway Patrol automated system.

[(3) All required state and federal criminal background checks must be submitted along with the application for registration renewal.]

(4) Failure to submit all required state and federal **fingerprint** criminal background checks *[with the application or the request to renew the registration]* shall be grounds for denial *[of registration]*.

AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed amendment covering this same material was published in the November 1, 2019, issue of the **Missouri Register** (44 MoReg 2671-2672). An emergency amendment covering this same material will be published in the February 3, 2020, issue of the **Missouri Register**.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

PRIVATE COST: This emergency rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

EMERGENCY RESCISSION

2 CSR 70-17.040 Industrial Hemp Pilot Program Grower and Handler Registration Agreement. This rule is being rescinded as the requirements set forth in the statute were removed.

PURPOSE: This rule explained the grower and handler registration agreement requirements.

*EMERGENCY STATEMENT: This emergency rescission informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency rescission is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. MDA believes this emergency rescission is fair to all interested parties under the circumstances. A proposed rescission covering this same material was published in the November 1, 2019, issue of the *Missouri Register* (44 MoReg 2672). This emergency rescission was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.*

*AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018, effective July 30, 2019. Rescinded: Filed Sept. 30, 2019. Emergency rescission filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed rescission covering this same material was published in the November 1, 2019, issue of the *Missouri Register* (44 MoReg 2672). An emergency rescission covering this same material will be published in the February 3, 2020, issue of the *Missouri Register*.*

PUBLIC COST: This emergency rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

EMERGENCY AMENDMENT

2 CSR 70-17.050 [Stipulations] General Provisions for Registered [Growers and Handlers] Producers and Agricultural Hemp Propagule and Seed Permit Holders. The department is amending the title, the purpose, and section (3), adding new sections (1), (2), (4)-(10), and deleting section (1).

PURPOSE: This amendment updates and clarifies provisions for the rule.

PURPOSE: This rule explains [stipulations] general provisions for registered [growers and handlers] producers and agricultural hemp propagule and seed permit holders.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2672-2673). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

[(1) No application or site modification request shall include any plot of land that is not owned or rented by the applicant, registered grower, or registered handler.]

(1) No person shall obtain, possess, produce, distribute, sell, or offer for sale any viable industrial hemp in Missouri, including

viable industrial hemp propagules or viable industrial hemp seed, without a valid producer registration or permit.

(2) Registrations and permits are effective on the date of issuance by the department and shall expire three (3) years from the last day of the month in which the registration or permit was issued. To renew a registration or permit at the end of the three- (3-) year period, registered producers and permit holders are required to satisfy all application requirements including completion of a state and federal fingerprint criminal background check, if applicable.

[(2)](3) Registered [growers and registered handlers] producers must also obtain an agricultural hemp propagule and seed permit to sell, distribute, or offer for sale any viable [agricultural hemp] propagules or viable seed.

(4) Permit holders must also obtain a producer registration to produce propagules or seed or to hold or store propagules for a period of forty-eight (48) hours or more.

(5) All registered producers and permit holders are subject to inspection, investigation, and sampling to verify compliance with the applicable laws, regulations, and guidelines.

(6) Any registered producer or permit holder shall destroy, without compensation, in accordance with department protocol:

(A) Any industrial hemp located in an area not identified on the application; or

(B) Any lot that tests out of compliance in accordance with 2 CSR 70-17.100.

(7) Persons shall hold the department harmless, release the department from liability, and waive the right to sue the department for any claims arising from matters associated with industrial hemp.

(8) Any registered producer, permit holder, or their agent, shall have the following in their possession when transporting viable industrial hemp within the state or shall include with viable industrial hemp transported by a third-party:

(A) A copy of their valid producer registration or agricultural hemp propagule and seed permit;

(B) A certificate of analysis for each lot in transport, if applicable;

(C) A bill of lading, if applicable; or

(D) A chain of custody form, if applicable.

(9) Third-party commercial transportation of viable industrial hemp is exempt from registration and permit requirements.

(10) Registered producers shall report hemp crop acreage to the Farm Service Agency annually.

AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed amendment covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2672-2673). An emergency amendment covering this same material will be published in the February 3, 2020, issue of the Missouri Register.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

Emergency Rules

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

PRIVATE COST: This emergency rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

EMERGENCY RESCISSION

2 CSR 70-17.060 Modification of Grower and Handler Applications and Fees. This rule is being rescinded as the requirements are no longer needed.

PURPOSE: This rule explained the process of modifying grower and handler applications and the associated fees.

*EMERGENCY STATEMENT: This emergency rescission informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency rescission is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. MDA believes this emergency rescission is fair to all interested parties under the circumstances. A proposed rescission covering this same material was published in the November 1, 2019, issue of the *Missouri Register* (44 MoReg 2673). This emergency rescission was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.*

*AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018, effective July 30, 2019. Rescinded: Filed Sept. 30, 2019. Emergency rescission filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed rescission covering this same material was published in the November 1, 2019, issue of the *Missouri Register* (44 MoReg 2673). An emergency rescission covering this same material will be published in the February 3, 2020, issue of the *Missouri Register*.*

PUBLIC COST: This emergency rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

Emergency Rules

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

EMERGENCY AMENDMENT

2 CSR 70-17.070 Industrial Hemp [Registration] Program Fees [(Renewal of Registration) and Other Fees]. The department is amending the title, purpose, and entire rule.

PURPOSE: This amendment updates the purpose and fees associated with the industrial hemp program.

PURPOSE: This rule explains registration, permit, and other related fees.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the *Missouri Register* (44 MoReg 2673-2675). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

[(1) Upon the department's selection of the application, the applicant will be provided an Industrial Hemp Pilot Program Grower and Handler Registration Agreement to be signed and submitted along with the applicable registration fees. Institutions of higher education are exempt from these fees.

(A) Grower registration fee: five hundred dollars (\$500) plus—

1. Forty-five dollars (\$45) per acre to be planted.

(B) Handler registration fee: five hundred dollars (\$500) plus—

1. For processing the grain component of industrial hemp: five hundred dollars (\$500);

2. For processing the fiber component of industrial hemp: five hundred dollars (\$500);

3. For processing the leaf and/or floral material component of industrial hemp (hemp extract and/or CBD): three thousand dollars (\$3,000); or

4. If processing more than one (1) component, the handler shall pay the fee associated with each component.

(C) Agricultural Hemp Seed Production Permit fee: five hundred dollars (\$500).

(2) Registered growers must pay an annual renewal fee of forty-five dollars (\$45) per acre for the second and third year of registration.

(3) Registered handlers must pay an annual renewal fee equal to the applicable processing fees listed in this section in (1)(B)1. through 4. for the second and third year of registration.

(4) Agricultural hemp seed production permittees must pay an annual renewal fee of five hundred dollars (\$500).

(5) Registrations are effective on the date originally issued by the department and will expire three (3) years after the date of issuance.

(6) Applications for registration renewal must be received no more than one hundred twenty (120) days and no less than thirty (30) days prior to the expiration of the three- (3-) year registration. Registered growers and handlers shall be required to satisfy all requirements for registration as if never before registered, including completion of an acceptable state and federal criminal background check. Registered growers will be considered first for subsequent three- (3-) year registration renewals.

(7) If unaccounted acres are available for production and cultivation, the department will announce an open application period on the department's website. During this period, the department will consider new applications and registration modifications for the acreage.

(8) When destruction is required, the department will assess to the registered grower an appropriate destruction certification fee. Such fee will be commensurate with the Missouri Highway Patrol or local law enforcement agencies' costs for certifying crop destruction. Such fee shall be paid within thirty (30) days of receiving an invoice.]

(1) The applicant, registered producer, or permit holder must pay all fees as established in applicable laws and regulations. All fees are nonrefundable.

(2) Applicants must submit a seven hundred fifty dollar (\$750) fee with each registration or permit application.

(3) Registered producers and permit holders must pay an annual fee of seven hundred fifty dollars (\$750) for the second and third year of registration. Annual fees are due by the end of the month of the anniversary date of the initial approval.

(4) If fees are not paid by the due date, a late fee of twenty-five percent (25%) may be assessed for fees that are up to thirty (30) days past due. A late fee of fifty percent (50%) may be assessed

Emergency Rules

for fees thirty-one (31) to sixty (60) days past due. Fees not paid within sixty (60) days of the due date will result in revocation of the producer registration or permit.

(5) The department may invoice registered producers and permit holders for all applicable destruction certification expenses. Such fees will be commensurate with the Missouri State Highway Patrol or local law enforcement agencies' costs for certifying crop destruction. The destruction certification fee shall be due thirty (30) days after the invoice date.

(6) The department may invoice registered producers and permit holders for all related inspection, investigation, and sampling costs, including mileage charged at the federal mileage rate, and all related laboratory analysis costs.

*AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed amendment covering this same material was published in the November 1, 2019, issue of the **Missouri Register** (44 MoReg 2673-2675). An emergency amendment covering this same material will be published in the February 3, 2020, issue of the **Missouri Register**.*

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency amendment will cost private entities an estimated one hundred seventy-five thousand dollars (\$175,000) for the duration of the emergency.

Emergency Rules

FISCAL NOTE PRIVATE COST

- I. **Department Title:** 2 – Department of Agriculture
 Division Title: 70 – Plant Industries
 Chapter Title: 17 – Industrial Hemp

Rule Number and Title:	2 CSR 70-17.070 Industrial Hemp Registration and Permit Fees
Type of Rulemaking:	Emergency Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
500	Registered producers & Permit holders	\$175,000 for duration of the emergency

III. WORKSHEET

500 Registered producers & Permit holders x \$750/year = \$350,000/year times 6 months = \$175,000

IV. ASSUMPTIONS

It is assumed that 500 persons will apply for or maintain a producer registration or agricultural hemp propagule and seed permit. The initial registration/permit fee and annual maintenance fee are established at \$750.

Emergency Rules

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

EMERGENCY AMENDMENT

2 CSR 70-17.080 Site Access for Missouri Department of Agriculture (MDA) and Law Enforcement Inspection [and Sampling]. The department is amending the title and sections (1) and (2), deleting section (3), and adding a new section (3).

PURPOSE: This amendment clarifies site access requirements in rule.

PURPOSE: This rule explains the site access requirements.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the **Missouri Register** (44 MoReg 2673-2675). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

(1) The department will provide information to the Missouri State Highway Patrol about the registered [grower and handler] **producer or permit holder's** operation as it relates to the [growing, cultivation, processing, and storage of] **production, sale, distribution, or offer for sale of viable industrial hemp** at locations as indicated on the application [for registration].

(2) Registered [grower and handler] **producer or permit holders** shall have no reasonable expectation of privacy from the department or law enforcement, with respect to the [plot] **parcel** of land where [agricultural hemp seeds, industrial hemp plants, or industrial hemp plant materials are located as indicated on the application for registration] **viable industrial hemp is produced, sold, distributed, or offered for sale.**

[(3) A registered grower and handler, whether present or not, must permit the department or a representative of any law enforcement agency to enter the plot of land, with or without cause, where agricultural hemp seeds, industrial hemp plants, or industrial hemp plant materials are located or cultivated and any land or structure where agricultural hemp seeds, industrial hemp plants, or industrial hemp plant materials are processed, stored, or held for sale, with or without cause.]

(3) A registered producer or permit holder, whether present or not, must allow the department or a representative of any law enforcement agency to enter the parcel of land or structure, with or without cause, where viable industrial hemp is produced, sold, distributed, or offered for sale.

AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed amendment covering this same material was published in the November 1, 2019, issue of the **Missouri Register** (44 MoReg 2673-2675). An emergency amendment covering this same material will be published in the February 3, 2020, issue of the **Missouri Register**.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

Emergency Rules

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

EMERGENCY RESCISSION

2 CSR 70-17.090 Inspection of Site, Crop, and Sampling Requirements for Laboratory Analysis (Responsibilities of Registered Grower and Handler). This is being rescinded as the requirements are clarified in other rules within this chapter.

PURPOSE: This rule explained site inspections, crop inspections, and sampling requirements.

EMERGENCY STATEMENT: This emergency rescission informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency rescission is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rule-making. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. MDA believes this emergency rescission is fair to all interested parties under the circumstances. A proposed rescission covering this same material was published in the November 1, 2019, issue of the *Missouri Register* (44 MoReg 2676). This emergency rescission was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018, effective July 30, 2019. Rescinded: Filed Sept. 30, 2019. Emergency rescission filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed rescission covering this same material was published in the November 1, 2019, issue of the *Missouri Register* (44 MoReg 2676). An emergency rescission covering this same material will be published in the February 3, 2020, issue of the *Missouri Register*.

PUBLIC COST: This emergency rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

Emergency Rules

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

EMERGENCY AMENDMENT

2 CSR 70-17.100 Sampling Requirements and Results of Analysis.

The department is amending the title, purpose, section (1), deleting section (2)–(7), and adding new sections (2)–(17).

PURPOSE: This amendment updates sampling requirements and the results of analysis.

PURPOSE: This rule explains the sampling requirements and results of analysis for the program.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the *Missouri Register* (44 MoReg 2676–2677). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

(1) All industrial hemp [varieties planted and cultivated] lots produced within a [plot] parcel of land must be sampled in accordance with the department's sampling protocol and tested by a testing laboratory to ensure compliance with [the] applicable laws and regulations.

[(2) Registered growers must collect samples in accordance with the department's sampling protocol within fifteen (15) days prior to harvest.

(3) Each variety of industrial hemp must be analyzed by an independent testing laboratory for analysis for delta-9 THC concentration on a dry weight basis.

(4) Sampled plant material from multiple varieties shall not be commingled.

(5) One (1) duplicate composite sample of each variety of industrial hemp must be collected and retained by the registered grower in accordance with established department protocols, to be analyzed if the original composite sample certificate of analysis reports greater than three-tenths of one percent (0.3%) delta-9 THC concentration on a dry weight basis.

(6) Registered growers must maintain a copy of each certificate of analysis as part of the Industrial Hemp Plant Monitoring System for a period of three (3) years from date of analysis.

(A) Registered growers must provide to a registered handler or processor a copy of each certificate of analysis for each variety of industrial hemp distributed or sold.

(B) Registered growers must submit to the department, within three (3) business days of receipt, copies of all certificates of analysis showing a delta-9 THC concentration on a dry weight basis greater than three-tenths of one percent (0.3%) as evidence that the industrial hemp variety is not in compliance with applicable laws and regulations. Upon receipt of each certificate of analysis showing noncompliance, the registered grower will submit the retained duplicate composite sample for that variety from the same plot of land to be immediately delivered to the independent testing laboratory for analysis.

(C) Registered growers must submit to the department, within three (3) business days of receipt, each duplicate composite certificate of analysis. The department will issue to the registered grower an order for destruction for the specific industrial hemp testing out of compliance. Destruction must be completed by the registered grower within ten (10) days of receipt of the department's order for destruction.

1. The registered grower must maintain a destruction report.

2. The registered grower must submit a copy of the destruction report to the department within three (3) days of crop destruction and the department will notify the Missouri Highway Patrol and local law enforcement of crop destruction.

(7) Registered growers are financially responsible for all costs associated with contracting laboratory services, sample collection, delivery of samples to the independent testing laboratory, and laboratory analysis.]

(2) All samples used to determine compliance with applicable laws and regulations must be collected by a certified sampler or authorized department personnel. All samples used to determine compliance with applicable laws and regulations must be submitted to a testing laboratory for analysis.

(3) Requirements for a person to qualify as a certified sampler include:

(A) Complete a training course approved by the department;
(B) Pass a certification test with a score of no less than eighty percent (80%);

(C) Meet the requirements of a state and federal fingerprint criminal history background check listed in 2 CSR 70-17.030;

(D) Submit a certified industrial hemp sampler application;

Emergency Rules

and

(E) Submit a non-refundable application fee of \$50 to the department at the time of application.

(4) An industrial hemp sampler certification is valid for a period of three (3) years unless revoked by the department. Certifications can be renewed by completing the requirements set in 2 CSR 70-17.100(3) to qualify as a certified sampler.

(5) Certified samplers or authorized department personnel shall:
(A) Adhere to the department sampling protocol for collection and handling of samples; and

(B) Complete and attach a department chain of custody form to each sample.

(6) No certified sampler shall sample a lot for a registration in:

(A) His or her name;

(B) His or her employer's name; or

(C) Which he or she is a key participant.

(7) The department may revoke the sampler's certification if he or she:

(A) Admits to or has been found by the department to have violated proper procedures established in the department's hemp sampling protocol;

(B) Makes any false statements to the department, Missouri State Highway Patrol or any law enforcement agency with regard to industrial hemp; or

(C) Fails to comply with any order from the department or any order regarding industrial hemp from the Missouri State Highway Patrol or any law enforcement agency.

(8) Sampled plant material from separate lots shall not be commingled.

(9) Samples must be taken within fifteen (15) days prior to harvest.

(10) The lot is a publicly marketable product if the sample used to determine compliance with applicable laws and regulations meets the definition of acceptable THC level.

(11) For any sample exceeding the acceptable THC level, the registered producer may request the laboratory to retest the sample. The registered producer must notify the department and the laboratory of the request in writing.

(12) If a retest is not requested or the retest exceeds the acceptable THC level, the department will issue an order of destruction to the producer.

(13) Registered producers must maintain a copy of each certificate of analysis as part of the Industrial Hemp Plant Monitoring System for a period of three (3) years from the date of analysis.

(14) Registered producers must submit certificates of analysis for all samples used to determine compliance with applicable laws and regulations to the department.

(A) Registered producers must submit to the department, within three (3) business days of receipt, copies of any certificate of analysis that show the tested sample measured above the acceptable THC level as evidence that the lot does not comply with applicable laws and regulations.

(B) Registered producers must submit to the department, within thirty (30) business days of receipt, copies of any certificate of analysis that show the tested sample measured within the accept-

able THC level as evidence that the lot does comply with applicable laws and regulations.

(15) The department may issue to the registered producer or permit holder an order of destruction for any lot testing out of compliance. Destruction must be completed by the registered producer or permit holder within fifteen (15) days of receipt of the department's order of destruction. The Missouri State Highway Patrol or local law enforcement agency must complete certification of crop destruction. In addition:

(A) The registered producer or permit holder must maintain a destruction report; and

(B) The registered producer or permit holder must submit a copy of the destruction report to the department within thirty (30) business days of crop destruction.

(16) All harvested lots awaiting a certificate of analysis shall not be processed, commingled, or sold until compliant test results are obtained.

(17) Registered producers or permit holders are financially responsible for all costs associated with contracting laboratory services, sample collection, delivery of samples to the testing laboratory, and laboratory analysis.

AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed amendment covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2676-2677). An emergency amendment covering this same material will be published in the February 3, 2020, issue of the Missouri Register.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency amendment will cost private entities an estimated two thousand five hundred dollars (\$2,500) for the duration of the emergency.

Emergency Rules

FISCAL NOTE PRIVATE COST

- I. **Department Title:** 2 – Department of Agriculture
 Division Title: 70 – Plant Industries
 Chapter Title: 17 – Industrial Hemp

Rule Number and Title:	2 CSR 70-17.100 Sampling Requirements
Type of Rulemaking:	Emergency Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification: by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
100	Certified Industrial Hemp Samplers	\$2,500 for the duration of the emergency

III. WORKSHEET

100 Certified Industrial Hemp Samplers X \$50/application = \$5,000/year
 Emergency rule duration = 6 months or 0.5 years
 \$5,000 X 0.5year = \$2,500 for the duration of the emergency

IV. ASSUMPTIONS

It is assumed that 100 persons will apply for a Certified Industrial Hemp Sampler certification. The application fee established in the rule is \$50/application.

Emergency Rules

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

EMERGENCY AMENDMENT

2 CSR 70-17.110 Industrial Hemp Plant Monitoring System [(Records, Reports, and Data Maintained for Cultivating, Sampling, Certificates of Analysis, Storing, Processing, Destruction, and Sale or Distribution of Industrial Hemp)] **Requirements.** The department is amending the title, purpose, sections (1)–(3), and adding section (4).

PURPOSE: This amendment updates requirements for the industrial hemp plant monitoring system.

PURPOSE: This rule explains the industrial hemp plant monitoring system requirements for viable industrial hemp.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2677–2679). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

(1) All registered [growers and handlers] producers and permit holders must keep and maintain an Industrial Hemp Monitoring System for all records, reports, data, and certificates of analysis relating to the planting, cultivation, harvest, sampling, [processing,] storage, destruction, sale, or distribution of viable industrial hemp. All records, reports, data, and certificates of analysis must be kept

for a period of three (3) years from the date of each activity.

(2) All hemp monitoring system data shall be available for inspection and auditing [at a reasonable time] during regular department business hours, or upon request in writing. The department shall be furnished complete copies of these records within ten (10) business days of receipt of request.

(3) [Contents of an Industrial Hemp Plant Monitoring System include] Registered producers shall maintain the following:

(A) Planting Reports—

1. Registered [growers] producers must record, within [ten (10)] thirty (30) days of planting, a planting report, including the replanting of seeds or propagules on a [plot] parcel of land. For each industrial hemp [variety] lot planted, the planting report shall contain:

A. GPS coordinates for the [plot] parcel of land;

B. The number of acres or square footage of each variety planted;

C. The GPS coordinates for each [variety] lot planted; and

D. The seed bag label or tag, bulk seed certificate, [and/or complete variety name of] bill of lading/invoice for propagule(s), or documentation stating the origin of the industrial hemp.

(B) Sample Analysis Reports—

1. Certificates of analysis [must be kept and maintained] for all industrial hemp [varieties] lots sampled by a certified sampler and tested by [an independent] a testing laboratory. Certificates of analysis must be kept [and maintained] for a period of three (3) years from date of analysis.

2. Documentation of the registered grower notification to the department for all certificates of analysis showing a delta-9 THC concentration in excess of three-tenths of one percent (0.3%) on a dry weight basis.

3. Documentation verifying that copies of certificates of analysis were provided for each industrial hemp variety distributed or sold to a registered handler or processor.]

(C) Destruction Reports—

1. Within [three (3)] thirty (30) days of crop destruction the registered [grower] producer must produce a destruction report, including] that includes the:

A. Copy of the department's order of destruction or a written statement justifying the destruction of [an industrial hemp crop] the lot;

B. [Number of acres of each variety] Amount destroyed;

C. Date(s) of destruction; and

D. Method of destruction.

(D) Harvest Reports—

1. Within [ten (10)] thirty (30) days of harvest, the registered [grower] producer must produce [for each industrial hemp variety harvested,] a harvest report including:

A. Date of harvest for each [variety] lot;

B. Number of acres or square footage of each [variety] lot harvested;

C. Amount of each industrial hemp [variety] lot harvested;

and

D. Location of viable seed storage[;].

[E. Date and amount of industrial hemp transferred to each registered handler or processor; and

F. Name of registered handler or processor, handler registration number and registration expiration date, and processing facility location address.

(E) Handling Reports—

1. Within ten (10) days of purchase, storage, disposal, or processing, the registered handler must produce:

A. Copies of industrial hemp purchasing agreements with registered growers;

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B. Copies of all certificates of analysis for all industrial hemp varieties obtained from registered growers;

C. Inventory reports of each variety of industrial hemp being stored and processed, including:

(I) Date of inventory;

(II) Location of stored inventory;

(III) Total amount of industrial hemp and seed of each variety;

(IV) Total amount of unusable industrial hemp and seed of each variety; and

(V) Name, signature, and title of the employee performing inventory.

D. Disposal records for all unusable industrial hemp and seed, including the following:

(I) Date of disposal;

(II) Amount of industrial hemp disposed;

(III) Disposal or destruction method;

(IV) Location of disposal or destruction;

(V) Complete variety name; and

(VI) Name, signature, and title of employee responsible for disposal or destruction.

E. Processing records, including the following:

(I) List of products produced from industrial hemp;

(II) Address or location of processing facility;

(III) List of buyers, if sold, including:

(a) Name, address, and phone number of buyer;

(b) Products purchased;

(c) Quantity of each product purchased; and

(d) Date of distribution.

(F) Seed Reports—

1. Within ten (10) days of storing, distributing, or selling agricultural hemp seed, a registered grower or handler with an agricultural hemp seed production permit must produce:

A. Amount of each variety of agricultural hemp seed the registered grower is retaining from the current season's crop for next year's planting;

B. Amount of each variety of industrial hemp in the registered handler's inventory and documentation verifying the origin of the agricultural hemp seed;

C. Distribution and Sales records—

(I) Name, address, phone number, registration number, and registration expiration date of the registered grower distributing or selling agricultural hemp seed;

(II) Date of transaction, sale, or distribution;

(III) Complete variety name;

(IV) Amount of each variety sold or distributed; and

(V) Name, address, registration number, registration expiration date, and phone number of registered grower to whom the agricultural hemp seed was distributed or sold.]

(4) Permit holders shall maintain the following:

(A) Distribution and Sales Reports—

1. Within thirty (30) days of distributing or selling agricultural hemp propagules or agricultural hemp seed, permit holders shall record:

A. Name, address, phone number, permit number, and permit expiration date of the permit holder distributing or selling agricultural hemp seed or propagules;

B. Date(s) of sale and distribution;

C. Complete variety name;

D. Amount of each variety sold or distributed;

E. Name, address, and phone number, registration or permit number, and registration or permit expiration date of the registered producer or permit holder to whom the agricultural hemp seed or propagules were distributed or sold; and

F. Documentation verifying that copies of certificates of

analysis were provided for each industrial hemp variety distributed or sold.

(B) Destruction Reports—

1. Within thirty (30) days of crop destruction the permit holder shall produce a destruction report that includes the:

A. Copy of the department's order of destruction or a written statement justifying the destruction of the lot;

B. Amount destroyed;

C. Date(s) of destruction; and

D. Method of destruction.

AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed amendment covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2677–2679). An emergency amendment covering this same material will be published in the February 3, 2020, issue of the Missouri Register.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

EMERGENCY AMENDMENT

2 CSR 70-17.120 Revocation of Registration or Permit. The department is amending the title, purpose, and sections (1)—(4).

PURPOSE: This amendment clarifies revocation of a producer registration or permit.

PURPOSE: This rule explains registration **and permit** revocations.

EMERGENCY STATEMENT: This emergency amendment informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency amendment is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. MDA believes this emergency amendment is fair to all interested parties under the circumstances. A proposed amendment covering this same material was published in the November 1, 2019, issue of the **Missouri Register** (44 MoReg 2679). This emergency amendment was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

(1) The department may immediately revoke a registration [or permit] if the registered [grower, registered handler, and/or signing authority] **producer or any key participant** pleads guilty to, pleads *nolo contendere* to, **is found guilty of**, or is convicted of, [any felony] **a felony under any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance**.

(2) The department may immediately revoke a registration or permit if the registered [grower, registered handler, and/or signing authority] **producer or permit holder** admits to or is found by the department to have:]—

(A) Violated any provision of sections 195.203 to 195.773, RSMo or any regulation promulgated thereunder;

(B) Made any false statement to the department, the Missouri State Highway Patrol, or any law enforcement agency; **or**

(C) Failed to comply with any order from the department, or any order regarding industrial hemp from the Missouri State Highway Patrol or any law enforcement agency[; or].

[(D) Violated the registration agreement required in 2 CSR 70-17.040.]

(3) Any registered [grower or handler] **producer or permit holder** whose registration or permit has been revoked shall not harvest, [process,] store, distribute, sell, or remove **viable** industrial hemp from any location except as authorized in writing by the department.

(4) [The department may schedule a registration revocation hearing after the notification of revocation has been issued] **A registered producer or permit holder may request a revocation hearing within thirty (30) days of the issued notification.**

AUTHORITY: section 195.773, RSMo Supp. [2018] 2019. Original rule filed Nov. 20, 2018, effective July 30, 2019. Amended: Filed Sept. 30, 2019. Emergency amendment filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed amendment covering this same material was published in the November 1, 2019, issue of the **Missouri Register** (44 MoReg 2679). An emergency amendment covering this same material will be published in the February 3, 2020, issue of the **Missouri Register**.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

Emergency Rules

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 17—Industrial Hemp

EMERGENCY RULE

2 CSR 70-17.130 Agricultural Hemp Seed Requirements

PURPOSE: This rule designates the labeling requirements for agricultural hemp seed and also designates restricted weed seeds. Both agricultural hemp seed and restricted weed seeds content must be declared on the label to comply with the rule.

EMERGENCY STATEMENT: This emergency rule informs the public of what provisions are necessary for the efficient and effective implementation of the Industrial Hemp Program. The department believes this emergency rule is necessary to serve a compelling governmental interest in order to implement the regulatory framework for industrial hemp production in Missouri. Emergency rules are necessary to issue registrations and permits in preparation for the 2020 growing season. The Missouri Department of Agriculture (MDA) shall promulgate rules for the registration and permitting of persons for the production of industrial hemp. MDA must maintain a list of registered producers and agricultural hemp propagule and seed permit holders that produce, sell, distribute, or offer for sale viable industrial hemp. MDA must provide the list of registered producers and permit holders to the Missouri State Highway Patrol for verification of legal production of industrial hemp. MDA rulemaking authority also allows for the inspection and sampling of any hemp crop to determine if a crop contains a legally allowable tetrahydrocannabinol (THC) concentration in accordance with the federal Controlled Substances Act under 21 U.S.C. Section 801 et. seq. MDA must also promulgate rules for: application requirements for registration and permitting; industrial hemp plant monitoring systems; testing requirements to ensure that the hemp does not exceed the legal limit of delta-9 THC; and registration and permit revocation, refusal protocols, and civil penalties for violations of these provisions. Anecdotal evidence suggests that a minimum of five hundred (500) persons will be registered to produce industrial hemp as a result of meeting the requirements for a registration or permit. No person may legally possess viable industrial hemp under the authorizing statute without first obtaining a producer registration or agricultural hemp propagule and seed permit in Missouri. As a result, MDA finds a compelling governmental interest which requires this emergency rulemaking. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. MDA believes this emergency rule is fair to all interested parties under the circumstances. A proposed rule covering this same material was published in the November 1, 2019, issue of the Missouri Register (44 MoReg 2679-2680). This emergency rule was filed December 17, 2019, becomes effective January 2, 2020, and expires June 29, 2020.

(1) This rule applies only to permit holders who sell, distribute, or offer for sale viable industrial hemp seeds.

(2) Definitions.

(A) Restricted Weed Seeds.

1. Prohibited Weed Seeds. The seeds of the following plants: balloon vine (*Cardiospermum halicacabum*), Canada thistle (*Cirsium arvense*), field bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum halepense*), musk thistle (*Carduus nutans*), serrated tussock (*Nassella trichotoma*), and sorghum alnum (*Sorghum alnum*).

2. Noxious Weed Seeds. The seeds of the following plants: plants commonly known as docks of the *Rumex species* (red sorrel, curly dock, etc.), dodders (*Cuscuta species*), buckhorn (*Plantago*

lanceolata), eastern black night-shade (*Solanum ptycanthum*), giant foxtail (*Setaria faberi*), hedge bindweed (*Convolvulus sepium*), leafy spurge (*Euphorbia esula*), hoary cress (*Cardaria draba*), purple moonflower (*Ipomoea muricata*), quackgrass (*Elymus repens*), Russian thistle (*Salsola pestifer*), slender oats (*Avena barbata*), wild garlic (*Allium vineale*), wild oats (*Avena fatua*), wild onion (*Allium canadense*) and yellow star thistle (*Centaurea solstitialis*) are designated as noxious and are subject to listing on seed labels.

(B) Percentage of Germination. The label claim for percent of germination shall be the result of a test of any lot of seed which has been sampled according to and analyzed by the *AOSA Rules for Testing Seed*, (Vol. 1, 2018), Association of Official Seed Analysts.

(3) Agricultural Hemp Seed Labeling Requirements.

(A) Labeling Seed as to Noxious Weed Seed Content. Noxious weed seed content must be labeled in one (1) of the three (3) following ways:

1. None—meaning no noxious weed seed is present;

2. Not in excess of eighty (80) noxious weed seeds per pound or eighteen (18) per one hundred (100) grams.

3. Name and number of each kind of noxious weed seed present, when in excess of that stated in subsection (3)(A)2.

(B) The seed label shall show the name, complete address, and zip code of the seed labeler.

(C) The purity percentages of pure seed, inert matter, other crop and weeds' seed shall total one hundred percent (100%) on the seed tag.

(D) The information required on an agricultural seed label should appear in the following format:

Kind or Kind and Variety of Seed		
Pure seed %	Germination %	Net weight
Inert matter %	Hard seed %	Lot #
Other crop %	Total germination and hard seed %	Origin
Weed seed %		Month and year of germination test
Noxious weed seeds per pound or per one hundred (100) grams		
The name and address of person or company held responsible for seed labeling should follow other information or should be printed on opposite side of label.		

(E) No advertising matter of any kind shall be printed on the label.

(F) No printed or written matter of any kind shall be attached to the original label.

(G) Seed in Storage. Any agricultural hemp seed, whether in bags, bins or other containers exposed to customers in a retail sales outlet, shall be considered offered or exposed for sale for seeding purposes in Missouri and will be subject to the provisions of this rule, unless the seed is labeled in one (1) of the following ways: "For Feeding Purposes Only" (with no reference being made to germination, variety, or other factors indicating that the seed is suitable for seeding purposes) or "For Processing Only—Not For Sale."

(H) Any treatment of seed regulated by this law must be labeled to show the treatment.

1. The labeling of a treatment for seed must be done either on a separate tag or on the bag.

2. If a treatment adds more than one percent (1%) to the weight of the seed, that weight must also be included in the inert matter weight of the seed.

3. If the amount of treatment on the seed is harmful to man or animal, the label shall name the additive and give a precautionary use statement. In addition, a contrasting colored dye showing evidence of treatment must be used.

4. If the treatment of the seed is an inoculant, a date of expiration must be stated.

(I) The owner or possessor shall be responsible for properly labeled bulk or opened bags of agricultural seed.

AUTHORITY: section 195.773, RSMo Supp. 2019. Original rule filed

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*Sept. 30, 2019. Emergency rule filed Dec. 17, 2019, effective Jan. 2, 2020, expires June 29, 2020. A proposed rule covering this same material was published in the November 1, 2019, issue of the **Missouri Register** (44 MoReg 2679-2680). An emergency rule covering this same material will be published in the February 3, 2020, issue of the **Missouri Register**.*

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.